



**TOWN OF WEARE**  
PLANNING BOARD  
ZONING BOARD OF ADJUSTMENT  
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Naomi L. Bolton  
Land Use Coordinator

**Office Hours:**  
Monday  
thru  
Friday  
8 AM – 4:30 PM

**PLANNING BOARD  
MINUTES  
JANUARY 8, 2009  
(Approved as amended 1/22/09)**

**PRESENT:** Paul Morin, Chairman; Craig Francisco, Vice Chairman; George Malette, Secretary; Tom Clow, Exofficio; Frank Bolton; Neal Kurk, Alternate; Dani-Jean Stuart, Alternate Naomi Bolton, Land Use Coordinator

**GUESTS:** Bruce Fillmore; Nancy Fillmore; Frank Farmer; John McCausland; Ellen Dokton; David Erickson; Eric Masterson; Steve Najjar; Andy Fulton; Karen Broehme; Ian McSweeney.

**I. CALL TO ORDER:**

Chairman Paul Morin called the meeting to order at 7:05 PM at the Weare Town Office Building.

**II. PUBLIC HEARING:**

DISCUSS ZONING AMENDMENT PROPOSALS FOR INCLUSION ON THE MARCH 2009 TOWN WARRANT: Chairman Morin opened this public hearing at 7:08 PM. Chairman Morin explained that tonight is the final public hearing for the 2009 warrant articles. Chairman Morin state that we are going to go in the exact order how they were posted. In the effort of efficiency he has been asked by a board member to open each amendment for public input and then he is going to close public input and move onto the next amendment. Then the board will return to the top to discuss and deliberate on each amendment. A motion will then be made for each amendment.

***Amendment No. 1: add a new Article 35 “Small Wind Energy Systems” as part of recent legislation that requires Towns to allow wind powered turbines to be set up but empowers Towns to regulate them.***

The article for the town ballot will read:

Are you in favor of [Amendment No. 1](#), as proposed by the Planning Board for the Town Zoning Ordinance as follows: to add a new Article 35 entitled “Small Wind Energy Systems”?

Public input: None. Chairman Morin then closed the public input on this amendment.

***Amendment No. 2: amend Article 32.4.1 to eliminate cell towers in the historic districts by changing the first sentence.***

The article for the Town ballot will read:

Are you in favor of [Amendment No. 2](#), as proposed by the Planning Board for the Town Zoning Ordinance as follows: to amend Article 32.4.1 to eliminate cell towers in the historic districts?

Public input: None. Chairman Morin then closed the public input on this amendment.

***Amendment No. 3: amend Article 27.3.11 with 2 amendments i) to allow the open space to be protected by “covenants” and to be able to be held by “land owners” and such open space “may” be deeded to the Town in fee and ii) to amend the second paragraph to further protect the farmlands.***

The article for the Town ballot will read:

Are you in favor of the adoption of [Amendment No. 3](#), as proposed by the Planning Board for the Town Zoning Ordinance as follows: to make two (2) amendments to Article 27.3.11 to i) allow the open space to be protected by “covenants” and to be able to be held by “land owners” and such open space “may” be deeded to the Town in fee and ii) to amend the second paragraph

Neal Kurk spoke to this change. This language is being proposed so that farmlands were protected. The original proposal was to require such land in open space. In Chairman Morin’s suggestion, a priority list was generated so that each of the soils to be in the list. The amendment is designed so that the decision for the board is a thoughtful decision. In other words it doesn’t change what land should be in open space it just requires a separate vote. In default farmlands will be in the highest priority unless some of the other factors are higher. Andy Fulton, Chairman of the Conservation Commission stated that he felt that this change seems reasonable and sensible. George Malette stated that he thought the board had removed the section on the bottom removing “the vote” part. Some board members felt differently and the board decided to leave this amendment as it reads.

Chairman Morin explained that the open space that is created we are trying to add in some different parties to be able to be held by others. It also gives the Conservation Commission some leniency.

Andy Fulton, Chairman of the Conservation Commission stated that they had a board meeting prior to this meeting and there was a motion by their board to recommend the proposed changes as put forth by the Planning Board.

Steve Najjar stated that part of the reason we supported this is it helps rectify some of the small open space developments that might be difficult to monitor or

own. This puts it on the land owners to monitor it on their own and not on the Town.

Chairman Morin then closed public input on this amendment.

*Amendment No. 4: make three (3) amendments to Article 4 – Definitions by i) amending the definition of the word “lot” by eliminating the last sentence; ii) amending the definition of “dwelling unit” by adding the word kitchen; and iii) to add a definition of “conservation land” as there is currently not one.*

The article for the Town ballot will read:

Are you in favor of the adoption of [Amendment No. 4](#), as proposed by the Planning Board for the Town Zoning Ordinance as follows: to make three amendments to Article 4 – Definitions by i) amending the definition of the word “lot” by eliminating the last sentence; ii) amending the definition of dwelling unit by adding the word kitchen; and iii) to add a definition of “conservation land” as there is currently not one?

Public input: None. Chairman Morin then closed the public input on this amendment.

*Amendment No. 5: amend Article 9.1 to add a subsequent offence enforcement fee*

The article for the Town ballot will read:

Are you in favor of the adoption of [Amendment No. 5](#), as proposed by the Planning Board for the Town Zoning Ordinance as follows: to amend Article 9.1 to add a subsequent offence enforcement fee?

Public Comment: Bruce Fillmore asked if a subsequent offense would be after the first offense was rectified or is it day two of the same offense. Chairman Morin responded that was a great question, but it will be debated at the State legislature soon. He would think that if you do it the second time the fine would be that way. The purpose of the amendment is only an attempt to follow the legislature’s lead.

Chairman Morin then closed public input on this amendment.

*Amendment No. 6: amend Article 28 to allow temporary disturbance if there is a restoration plan and add an exception for any disturbance associated with an approved dredge and fill issued by the NHDES.*

The article for the Town ballot will read:

Are you in favor of the adoption of [Amendment No. 6](#), as proposed by the Planning Board for the Town Zoning Ordinance as follows: to amend Article 28 to allow temporary disturbance if there is a restoration plan and add an exception

for any disturbance associated with an approved dredge and fill issued by the NHDES?

Public Comment: Andy Fulton, Conservation Commission chairman stated that the Conservation Commission, by a 3-1 vote taken just minutes ago, would like to pass along a recommendation to remove this amendment from the warrant and work with the Conservation Commission over the next year to come up with something that would be a better resolution.

Steve Najjar stated that speaking for himself, he would like first ask that during the time when the board is actual voting, he would like to see that a member who might be directly impacted to step down. Chairman Morin stated that he will make sure it happens, but he believes that Mr. Francisco was planning on stepping down on this proposed amendment anyway. Mr. Najjar continued by adding that in developing the buffer ordinance as he authored it he was trying to key in on things that weren't too unjust, like a Class V road. He feels the direction with this proposed article, especially the exception for any disturbance portion really gives a lot of latitude with no review. Someone can make a case the whole driveway is exempt because of the wetlands approval. He believes the section on disturbance is not necessary. Right now it really focuses on no disturbances. The way this is written with just Planning Board approval could significantly affect other things. There is really no restoring a wetland and shouldn't be taken lightly to just go ahead and allow it. We had the same discussion last year and he personally would like to ask to remove it this year and if it is important let's set up some dates to meet (Conservation Commission and Planning Board) and put together something that makes sense. If the board feels it really necessary to cross a wetland it really needs to be surveyed. The way it is written it is a problem. SNHPC has recently worked with Raymond on something like this. It is not perfect. In closing he would strongly ask the Planning Board to consider removing it, get together schedule some time and make a good ordinance.

Chairman Morin asked Mr. Najjar for clarification on the comments. Part of the reason for this amendment had to do with the disturbance temporarily. It does happen with any job site, for instance the staging area around like new cellar holes. What he was thinking regarding temporary disturbance more in terms of taking out the material for the cellar and now that becomes the ramps around the cellar home and once the house is built native vegetation is to be restored.

Mr. Najjar felt that what Chairman Morin describes as disturbances, the existing language addresses it because no ground disturbance doesn't meet the staging around the cellar hole as described. The intent was to keep it simple and keep the job done.

Eric Masterson, director of the Piscataquog Land Conservancy (PLC) was asked to come and speak on this amendment on behalf of some of the members. The following comments were read:

From Ellen Goldsberry, 76 Quaker Street: "I am not able to go to evening meetings but you have my support on this. The Town absolutely should not allow a "temporary disturbance" of the designated buffer (the buffer should not be disturbed to begin with, and knowing how these things go, and how they *aren't* policed, I suspect restoration would never occur, or would occur in an inadequate manner). In fact, the Planning Board should be looking into increasing the buffer per the recommendations of the Guidebook you quote."

From Rosemary Conroy: "I cannot attend the meeting but would love for you to represent my voice! As a citizen of Weare, a professional naturalist, and ardent conservationist, I would like to express my opinion that it would be very short-sighted to amend this article. If anything, we should be strengthening protections for our already beleaguered wetlands! Restoration of impacted wetlands can never entirely bring back the ecological balance or hydrological function completely, and it is truly unfortunate to see this proposed as an adequate remedy. I also object to this amendment as it is too likely to be abused. We need our wetlands to remain as robust and healthy as possible and this amendment would sacrifice them, not based on any good science, but one suspects, simply for monetary gain. To ruin the health of the land upon which we all depend so that a few selfish individuals may profit is foolish, short-sighted, and undemocratic."

From Ellen Dokton: "Thanks for notifying me about this meeting. I would like to attend, and I'll try. Here are my comments.... I think it is very sad that people are willing to take the chance of polluting our waters and further harming delicate ecosystems. I am completely opposed to decreasing the 25 foot buffer, even temporarily."

From Verne Kaminski: "I'm sorry I will not be able to attend the meeting Thursday as I will be out of Town. Please take this e-mail as my objection to the proposed change in the wetland buffer zone. I firmly believe that 100 feet is necessary to protect our wonderful wetlands and would cast a "NO" vote for Article 28. If you need more than this from me to voice my objection, let me know."

From Dick Ludders: "Thank you for alerting me to the meeting with the Weare Planning Board regarding proposed changes to the Town's wetlands regulation. I appreciate your offer to carry forward the comments of the Piscataquog River Local Advisory Committee (PRLAC) as I will not be able to attend the meeting in person. The PRLAC opposes the change to the regulation that would allow the "temporary" disturbance of the 25' buffer area around a wetland. Wetlands are natural "filters" that are important protectors of the quality of ground and surface waters. The existing regulations provide a minimum protective area of 25' that is to be undisturbed so as to preserve the natural combination of soil and native vegetative matter that preserves and protects wetland areas. Preservation of our water quality should be a priority of the Planning Board in recognition of the precious resource it is."

From Mary Couture: "In light of recent flooding in Weare and in NH, we must do everything to protect the existing wetlands. The importance wetlands play in controlling flooding should serve as a reminder to all citizens that NH needs protection against flooding, not to mention the natural habitats they provide. I oppose Article 28 that mandates a 25 foot buffer."

Mr. Masterson also provided the board with a quote from the "Buffers for Wetlands and Surface Waters; A Guidebook for N.H. Municipalities" that says "After a thorough review of the current scientific literature and consultation with natural resource professionals and state and federal regulators, 100 feet is recommended as a reasonable minimum (emphasis added) buffer width under most circumstances." In addition to the quote he handed the board a list started a few years that show there are over 100 towns with a buffer that exceeds 25 foot.

John McCausland stated that he was heartened by Steve Najjar and it seems this could open the door to things that we don't want and to work with Conservation Commission would be an appropriate way to go. He thought that the PLC would also be glad to be part of the meetings as well.

David Erikson, 246 Poor Farm Road, and his wife Karen Broehm stated that both agree with what has been brought up by the Conservation Commission. He feels the 25 foot wetland buffer is very small and if it needs to be disturbed then we are building too close to wetlands. He would like to see it increased in the future. One impact he sees is drinking water and we should do more than less to help that out and work with the Conservation Commission to come up with something for next year.

Bruce Fillmore stated that he thought that buffers are a good idea and he has no issue with this article. The only issue is that requiring someone that wants to put a driveway across a stream to get a variance for something that requires a dredge and fill that is reviewed by the Conservation Commission he feels is excessive. He wondered if maybe the Town could require a special use permit granted by the Planning Board. This would take away the variance process.

Frank Bolton stated that he did have a couple of calls regarding this. Alicia Walker, Mt. Dearborn Road stated to him that she had concerns with this encroachment.

Paul Doscher had contacted Chairman Morin and he was not in favor of this amendment.

Steve Najjar wanted to clarify that Class V roads are exempt from that.

Chairman Morin then closed the public input on this amendment.

*Amendment No. 7: add a new Article 33 – Growth Management and Innovative Land Use Controls.*

The article for the Town ballot will read:

Are you in favor of the adoption of [Amendment No. 7](#), as proposed by the Planning Board for the Town Zoning Ordinance as follows: to add a new Article 33 entitled “Growth Management and Innovative Land Use Controls”?

Public Comment: David Erikson stated that he heard about this while watching Channel 6 and it is something that the previous board looked into back several years when he was on the board. He feels this is a tricky one and it would be a good thing to have in place so that if you have another boom we are prepared.

Steve Najjar asked if there was anyone on the Planning Board that could give a brief overview of how this one works. Neal Kurk stated that this is a temporary ordinance. Mr. Kurk had some handouts to brief show how it works. Handouts were given to those present. Mr. Kurk explained the handout.

Mr. Najjar responded, so currently the GMO is gone, there is nothing in place. Chairman Morin stated that it expired by itself because the need for having it was no longer needed. He thinks it is important for Weare to have something, hopefully this is the right answer, but he doesn't really understand it, he is in support to have something.

Chairman Morin then closed the public input on this amendment.

*Amendment No. 8: amend the flood plain ordinance as necessary to comply with requirements of the National Flood Insurance Program*

The article for the Town ballot will read:

Are you in favor of the adoption of [Amendment No. 8](#), as proposed by the Planning Board for the Town Zoning Ordinance as follows: to amend the flood plain ordinance as necessary to comply with requirements of the National Flood Insurance Program?

Public input: None. Chairman Morin then closed the public input on this amendment.

*Amendment No. 9: amend article 19.1.10 to add the word “dwelling” before “accessory attached apartment” where applicable; and to amend article 19.1.10.1 to regulate who may occupy the apartment*

The article for the Town ballot will read:

Are you in favor of the adoption of [Amendment No. 9](#), as proposed by the Planning Board for the Town Zoning Ordinance as follows: to amend article 19.1.10 to add the word “**dwelling**” before “accessory attached apartment” where

applicable; and to amend article 19.1.10.1 to regulate who may occupy the apartment?

Public Comment: David Erikson stated that he is wondering if there is any real way to regulate the occupants after it is built. It is really an enforcement issue. When the legal occupant is no longer there what happens. Other than by the way most zoning ordinance issues are brought to the attention of the Code Enforcement Officer, a complaint.

Chairman Morin then closed the public input on this amendment.

*Amendment No. 10: modify zoning of parcel 202-043.001 on Concord Stage Road from Commercial to Residential (By Petition)*

The article for the Town ballot will read:

Are you in favor of the adoption of [Amendment No. 10](#), as received by petition: to amend the Town of Weare Zoning Map by modifying the zoning of Tax Map 202, Lot 043.1, said parcel being located on Concord Stage Road, to change from Commercial (C) to Residential (R)? (By Petition)

Frank Farmer was present. Mr. Farmer stated that he subdivided this property over a year ago. They even came forth with a site plan for the lot in hope of having Acclinet relocating to here. After the site plan, the owner met with the Board of Firewards and during that process they were hit with excessive hurdles, so to their advantage they backed out of it. Mr. Farmer stated that they have had it advertised for the last year. During that time he has only had two inquires, one for a residence and one for a residence with an in home business. Three sides of this lot are residential. With the economy the way it is it seems like it will probably be a while before a commercial enterprises would locate there. This is a petitioned article.

Chairman Morin stated because this is a petitioned article he would like to ask for public input then segway right into the board discussion and then vote on it.

Public input: None. Chairman Morin then closed the public input on this amendment.

Chairman Morin stated that he will weigh in on this. It is consistent with the surrounding properties and he doesn't have any issue. Tom Clow stated that in looking at the map, all the property across the street is zoned commercial but is used residentially. Frank Bolton stated that he is very sympathetic to this, owning some industrial land, eventually he will probably do the same thing. When the Town was zoned originally, the commercial and industrial enjoyed all the uses that were available to other zones, but the board has now restricted so you no longer have the obvious attraction of a residential home. Now you can no longer use it for that, so you are sitting on a piece of land that has a higher tax



assessment than other zones and it is very difficult to get rid of, so he can sympathize. Dani-Jean Stuart asked how the five (5) acres zoning would come into play. She also thought this was a view shed corridor. Chairman Morin responded that this lot was created before the five acre zoning and would be exempt. Vote: Frank Bolton moved to put it on the ballot and to recommend the petitioned article; George Malette seconded the motion. Vote: 4 in favor (Clow; Malette; Bolton and Francisco), so the article will appear on the warrant with the board's recommendation. Chairman Morin stated that he will vote only in the event a tie needs to be broken.

**BOARD DISCUSSION ON THE OTHER ARTICLES:**

***Amendment No. 1: add a new Article 35 "Small Wind Energy Systems" as part of recent legislation that requires Towns to allow wind powered turbines to be set up but empowers Towns to regulate them.***

The article for the town ballot will read:

Are you in favor of [Amendment No. 1](#), as proposed by the Planning Board for the Town Zoning Ordinance as follows: to add a new Article 35 entitled "Small Wind Energy Systems"?

Neal Kurk stated that he feels there is a technical omission, which the board agreed. Mr. Kurk also commented that when this is printed on the ballot, would all the wording be put on. Naomi informed Mr. Kurk that only the question will appear on the ballot. She will have handouts available at the deliberative session as well as having it on line for review. Tom Clow also had some small clerical issues, no technical issues. George Malette stated that he recalled the color of the monopole being different then what was written there today. Naomi stated that she feels it accurately reflects the prior discussion. The board agreed to leave it alone because changing it would be too much to be allowed to be put on the ballot for this year.

Tom Clow moved to recommend the article to the voters; Frank Bolton seconded the motion. Vote: 4 in favor (Clow, Malette, Bolton and Francisco), so this article will appear on the warrant with the board's recommendation.

***Amendment No. 2: amend Article 32.4.1 to eliminate cell towers in the historic districts by changing the first sentence.***

The article for the Town ballot will read:

Are you in favor of [Amendment No. 2](#), as proposed by the Planning Board for the Town Zoning Ordinance as follows: to amend Article 32.4.1 to eliminate cell towers in the historic districts?

There was no discussion on this, it was pretty straight forward. Tom Clow moved to recommend the article for the ballot; Frank Bolton seconded the motion. Chairman Morin asked to have someone convince that with the increasing use of

wireless communication, it should be not allowed in these overlay districts. Mr. Kurk stated that when things change, so does technology and the reason for the 300 foot setback is that he thinks we don't have anything to compare with Williamsburg, VA but there are cell towers around in other surrounding neighborhoods but not close to the historic areas. Vote: 4 in favor (Clow, Malette, Bolton and Francisco), so this article will appear on the warrant with the board's recommendation.

*Amendment No. 3: amend Article 27.3.11 with 2 amendments i) to allow the open space to be protected by "covenants" and to be able to be held by "land owners" and such open space "may" be deeded to the Town in fee and ii) to amend the second paragraph to further protect the farmlands.*

The article for the Town ballot will read:

Are you in favor of the adoption of [Amendment No. 3](#), as proposed by the Planning Board for the Town Zoning Ordinance as follows: to make two (2) amendments to Article 27.3.11 to i) allow the open space to be protected by "covenants" and to be able to be held by "land owners" and such open space "may" be deeded to the Town in fee and ii) to amend the second paragraph

Tom Clow pointed out a few small corrections to the grammar. Craig Francisco moved to recommend this article for the ballot; George Malette seconded the motion. Discussion: Mr. Malette brought up the point again like last year and there was discussion that in the past if the decision is not unanimous, could the actual vote be put on the ballot. Mr. Clow feels that it should stand as a recommendation of the board and not individuals. Chairman Morin agreed that a board is an entity and whether the decision is unanimous or not it should stand as a board. Frank Bolton stated that as a board member and/or tax payer he would exercise his right of freedom of speech if he was opposed. Vote: 3 in favor (Clow, Malette and Francisco) and 1 abstention (Bolton) so this article will appear on the warrant with the board's recommendation.

*Amendment No. 4: make three (3) amendments to Article 4 – Definitions by i) amending the definition of the word "lot" by eliminating the last sentence; ii) amending the definition of "dwelling unit" by adding the word kitchen; and iii) to add a definition of "conservation land" as there is currently not one.*

The article for the Town ballot will read:

Are you in favor of the adoption of [Amendment No. 4](#), as proposed by the Planning Board for the Town Zoning Ordinance as follows: to make three amendments to Article 4 – Definitions by i) amending the definition of the word "lot" by eliminating the last sentence; ii) amending the definition of dwelling unit by adding the word kitchen; and iii) to add a definition of "conservation land" as there is currently not one?

Discussion: None. Tom Clow moved to recommend this article for the ballot; Craig Francisco seconded the motion. Vote: 4 in favor (Clow, Malette, Bolton and Francisco).

*Amendment No. 5: amend Article 9.1 to add a subsequent offence enforcement fee*

The article for the Town ballot will read:

Are you in favor of the adoption of [Amendment No. 5](#), as proposed by the Planning Board for the Town Zoning Ordinance as follows: to amend Article 9.1 to add a subsequent offence enforcement fee?

Discussion: None. Tom Clow moved to recommend this article for the ballot; Craig Francisco seconded the motion. Vote: 4 in favor (Clow, Malette, Bolton and Francisco).

Craig Francisco stated that he will be removing himself from the board for the discussion on the next amendment.

*Amendment No. 6: amend Article 28 to allow temporary disturbance if there is a restoration plan and add an exception for any disturbance associated with an approved dredge and fill issued by the NHDES.*

The article for the Town ballot will read:

Are you in favor of the adoption of [Amendment No. 6](#), as proposed by the Planning Board for the Town Zoning Ordinance as follows: to amend Article 28 to allow temporary disturbance if there is a restoration plan and add an exception for any disturbance associated with an approved dredge and fill issued by the NHDES?

Chairman Morin appointed Neal Kurk as a voting member for this amendment. Frank Bolton asked Chairman Morin to respond to the requests from the floor. Chairman Morin stated that he can't withdraw the amendment it has to be a vote of the board. He could speak in favor of withdrawing the amendment. He did have discussion with Steve Najjar and Andy Fulton and he understands their point and at this point in time he would be willing to entertain a different motion. He would like to possibly entertain allowing it by special exception instead of by variance. Under its current restriction that it seems odd that absolutely any infraction requires a variance. A variance is typically hard to get. It seems to him that is too high a level of proof especially if you can earn a permit from the State to impact a wetland. So while this buffer was created briefly and maybe his amendment has shortcomings he felt the restriction is too high. He leaves the vote to the board.

Neal Kurk stated that he thought that he now has a better understanding of what the problem is. He got a new understanding of breaking the ground. He thought it made a lot of sense to not put it on the warrant and to work with the Conservation Commission to come up with something that really works. Unless

there is some problem to get this in now, which he is not aware of, why not put it off. He would always try to not have two boards oppose each other without first at least trying to work out the issues. He feels this goes too far in the other direction and would like to not put it on the warrant.

Tom Clow stated that he thinks what came to light, is that we probably need a better definition of disturbance of what that means. It makes a huge difference whether it is for storing versus digging up the ground. What we need to do is to extend the definition of disturbance but that is something we can't do tonight.

Frank Bolton stated that after listening tonight our 25 foot buffer is a minimum. In some cases it is fine but not in others. He would like to see something come back and work with the Conservation Commission to accomplish what we would like to see for the future. He felt it should be looked at and he felt there was room to address Chairman Morin's concerns and the concerns of others.

George Malette stated that he was clear with what Mr. Kurk stated, but he is not clear with Mr. Clow and Mr. Bolton. For him as it stands now, he is a great believer of a buffer and he believes every situation needs to be looked at carefully. He thinks for the Planning Board with a recommendation by the Conservation Commission should be looked at. He is favor of moving forward, but not having the zoning board is the deciding board. He felt that it might be able to get some more interested parties involved. He felt what is written is better than what we have now, but also feels we can have a better product.

Neal Kurk moved to not have this amendment put on the ballot; Frank Bolton seconded the motion. Vote: 3 in favor and 1 opposed.

Craig Francisco returned to the board for the rest of the evening and Neal Kurk would return to an alternate position.

*Amendment No. 7: add a new Article 33 – Growth Management and Innovative Land Use Controls.*

The article for the Town ballot will read:

Are you in favor of the adoption of [Amendment No. 7](#), as proposed by the Planning Board for the Town Zoning Ordinance as follows: to add a new Article 33 entitled "Growth Management and Innovative Land Use Controls"?

Frank Bolton asked if everyone has had a chance to look at Neal Kurk's overview. All the previous discussion he has put forth. At the last discussion, there were questions as to what happens and how does it work. Mr. Kurk has put together, with Mr. Bolton, a handout which is a brief overview, when reduced to this brief overview, in his mind it is relatively easy to administer. He certainly would be interested in any comments from the board, it so inclined on how this administration would work. The brief overview is just that. It talks about the

temporary nature, overall building permit cap at 1.75%, priorities of issuing the building permits, and the calendar for planning board actions. He would appreciate some comments from the board before the vote.

Tom Clow stated that first of all, the enforcement of this and carrying out of the ordinance will be based on the whole article, not the summary. He finds it complex and thinks it would be very difficult to administer it. He would have a difficult time voting for it, and it is not that he is opposed to them.

Craig Francisco agreed with Mr. Clow and he felt it would be burden to Naomi and Chip Meany to try to get info to the board. He appreciates the subcommittees work. He felt in the economic time it is not needed. He would like it kept for a future article.

George Malette felt that all the towns do have a point system. The majority of them have professional planning staff. He felt it is very complex. He has some issue with this, without having a professional staff. Every part of this he has issues with. The key thing is that only if there is a regulated need for this should it be put in place. He felt this was not the right time to bring this forward. He was prepared to make a motion if there is no further discussion. If this is brought before the citizens they are not going to understand it like it's written. Without understanding it, it could pass and we would lose in court.

George Malette moved to remove this article from the warrant; Craig Francisco seconded the motion. Vote: 3 in favor (Clow, Malette and Francisco) and 1 opposed (Bolton).

*Amendment No. 8: amend the flood plain ordinance as necessary to comply with requirements of the National Flood Insurance Program*

The article for the Town ballot will read:

Are you in favor of the adoption of [Amendment No. 8](#), as proposed by the Planning Board for the Town Zoning Ordinance as follows: to amend the flood plain ordinance as necessary to comply with requirements of the National Flood Insurance Program?

Discussion: None. George Malette moved to recommend this article for the ballot; Craig Francisco seconded the motion. Vote: 4 in favor (Clow, Malette, Bolton and Francisco).

*Amendment No. 9: amend article 19.1.10 to add the word "dwelling" before "accessory attached apartment" where applicable; and to amend article 19.1.10.1 to regulate who may occupy the apartment*

The article for the Town ballot will read:

Are you in favor of the adoption of [Amendment No. 9](#), as proposed by the Planning Board for the Town Zoning Ordinance as follows: to amend article 19.1.10 to add the word "**dwelling**" before "accessory attached apartment" where applicable; and to amend article 19.1.10.1 to regulate who may occupy the apartment?

Craig Francisco asked why someone has to be related to live in the apartment. Mr. Kurk responded that it was originally intended to take care of family. It was not to be used like a duplex. He felt it would be a very significant change to the ordinance if we change our understanding of in-law apartments to rentals. If we are going to go the route of allowing duplexes or 2 family homes, we need to do it differently than by this in-law apartment. This is designed to make the ordinance interpreted as the way it has been.

Mr. Francisco stated that he never felt the in-law apartment was for in-laws. That is just him. He thinks that if he wants to build a 650 SF for an in-law and once the in-law passes on he would probably rent it out.

Tom Clow stated that he would go along with Mr. Francisco. He doesn't see it creating a huge problem. You are going to generally see the same reasons for adding on an in-law apartment, but he doesn't see it as something that will be broadly abused. When it is no longer needed for a family member, why couldn't you rent it out. It is a small unit that really wouldn't impact the town in any way.

Bruce Fillmore asked if it has to do with the relation, how adoptive relatives are handled. Dani-Jean Stuart responded that the State recognizes adopted children as blood relatives.

George Malette wanted to make it clear the ordinance does not use the words in-law. Mr. Kurk responded that under article 18 in-law apartments are referred to. Mr. Kurk further added that what we did in the past is to change the name from in-law to accessory apartment but keeping mind its intent. Mr. Malette agreed with Mr. Clow and Mr. Francisco even if he did agree with an in-law to restrict is an enforcement nightmare.

George Malette made a motion to remove this article from the warrant; Craig Francisco seconded the motion. Discussion: Frank Bolton stated that he tends to agree with what is written here, we are faced with a dire short of affordable housing, this is our answer to it, which he doesn't like. If we are going to address affordable housing we should do that. He thinks we are taking a backdoor easy out.

Chairman Morin stated that he has noted this to be an increasingly common lifestyle. It could any member of a family that needs some autonomy. That by its very nature is a limited amount of time. It then becomes reoccupied by someone

else, not necessary an in-law. Enforcement is difficult only to the degree we worry about it. This is written in as an exception by right.

Frank Bolton stated that a couple of terms that have been brought up tonight, enforcement and legality, he is not buying that. He will say that a 650 SF apartment won't impact the school too negatively. Most likely this will have real low impact.

Mr. Malette stated that he wanted to repeat again that he feels it is an enforcement nightmare and it is not going to be enforced why put it on. Mr. Clow stated that he would like to find a balance with the Town and individual's rights, if you build it you have a right to use it.

Dani-Jean Stuart stated that it is an enforcement issue because your neighbors are going to rat you out. It depends on if someone of authority finds out.

Chairman Morin stated we are not in the business of worrying about what goes on behind people's property lines, we are worried that it is a real problem if it is violated, if it gets violated and it is not a huge impact on us that speaks to where we draw the line.

Mr. Francisco voiced earlier about the enforcement issue. He rented an apartment like this and he was not related. He doesn't see anything wrong with having a 650 SF apartment.

Vote: 4 in favor (Clow, Malette, Bolton and Francisco).

### **III. ADJOURNMENT:**

As there was no further business to come before the board, Craig Francisco moved to adjourn at 9:45 PM, Frank Bolton seconded the motion, all in favor.

Respectfully submitted,

Naomi L. Bolton  
Land Use Coordinator